

## The Honorable Richard Jones

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

CHRISTOPHER KING, J.D. A/K/A  
KINGCAST, and JOHN NOVAK,

**Plaintiffs,**

V.

LIQUOR AND CANNABIS BOARD  
OF THE STATE OF WASHINGTON  
"LCB"; JANE RUSHFORD, CHAIR OF  
LCB AND RICK GARZA, DIRECTOR  
OF LCB, JAY INSLEE, GOVERNOR  
OF WASHINGTON, ROBERT  
FERGUSON, WASHINGTON  
ATTORNEY GENERAL AND  
WILLIAM P. BARR, UNITED  
STATES ATTORNEY GENERAL,  
OFFICE OF NATIONAL DRUG  
CONTROL POLICY

## In their Individual and Official Capacities.

### Defendants.

## I. INTRODUCTION

The Court should deny Plaintiffs' motion seeking to add Cynjo Raylene Hall as a plaintiff, and should deny Plaintiffs' request to treat the Defendants' Motion to Dismiss as moot. Plaintiffs have articulated no basis under FRCP 20 as to why the proposed additional Plaintiff should be joined. Further, the joinder of the proposed additional Plaintiff is contrary to FRCP

STATE DEFENDANTS' RESPONSE TO  
PLAINTIFFS' REQUEST FOR  
PERMISSIVE JOINDER AND TO  
MOOT DEFENDANTS' 12(B)(1)  
MOTION TO DISMISS  
(2:20-CV-01494-RAJ)

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Licensing & Administrative Law Division  
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Olympia, WA 98504-0110  
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1 20's emphasis on judicial economy and efficiency. Finally, Defendants' Motion to Dismiss is  
 2 currently pending before the Court, and the joinder of this additional Plaintiff does nothing to  
 3 cure the fundamental flaws with Plaintiffs' action, as the Defendants set forth in their Motion to  
 4 Dismiss and in their Opposition to Plaintiffs' Motion to File Second Amended Complaint.

## 5 II. ARGUMENT AND AUTHORITY

### 6 A. Plaintiffs' Motion for Joinder is Legally Insufficient and Contrary to the Goals of 7 Permissive Joinder under FRCP 20

8 It is within the Court's discretion to determine whether to grant joinder under FRCP 20.  
 9 A motion for permissive joinder requires a showing that: "(1) the plaintiffs assert any right to  
 10 relief arising out of the same transaction, occurrence, or series of transactions or occurrences;  
 11 and (2) there are common questions of law or fact." *Coughlin v. Rogers*, 130 F.3d 1348, 1350  
 12 (9th Cir. 1997). Plaintiffs' motion fails to set forth facts or reasoning sufficient to clear this  
 13 threshold. But, even if such a showing is met, the Court may decline to permit joinder if it is  
 14 contrary to the purpose of FRCP 20, which is "to promote trial convenience and to expedite the  
 15 final determination of disputes, thereby preventing multiple lawsuits." *League to Save Lake*  
 16 *Tahoe v. Tahoe Regional Planning Agency*, 558 F.2d 914, 917 (9th Cir. 1977)). The Court will  
 17 achieve no economy or expedite the final determination of this dispute by joining an additional  
 18 plaintiff.

#### 19 1. Plaintiffs' motion is insufficient to support joinder

20 As an initial matter, Plaintiffs' Motion is factually and legally insufficient to support joinder  
 21 under FRCP 20. In order to meet the requirements of the rule, Plaintiffs—and the proposed additional  
 22 plaintiff—must show that they "assert any right to relief arising out of the same transaction,  
 23 occurrence, or series of transactions or occurrences," and that "there are common questions of law  
 24 or fact." Plaintiffs have put forward no factual allegations to support that they and the proposed  
 25 joined plaintiff seek any relief arising from "the same transaction, occurrence, or series of  
 26 transactions or occurrences." Instead, Plaintiffs' Motion first makes reference to Levi Lyon, an

1 individual whose relationship to this matter is not apparent. Pls' Mot. Permissive Joinder 1. The  
 2 references to Cynjo Hall consist of a link to an email, and incomplete portion of an email sent by  
 3 Mr. King (*see Decl. of Jonathan Pitel ¶ 3; Exhibit A*); and a purported, uncertified copy of a judgment  
 4 and sentence issued by the Snohomish County District Court. The purported judgment and sentence  
 5 includes no corroborating information, nor does it provide any rationale for the outcome of the matter  
 6 involving Cynjo Hall. And Plaintiffs have alleged no facts tying themselves to the same transaction  
 7 or occurrence (or series thereof) which led to Cynjo Hall's misdemeanor charge. Nor have they  
 8 alleged facts tying that charge to this action. And finally, they allege nothing connecting any of the  
 9 State Defendants to the misdemeanor charge described in the purported judgment and sentence from  
 10 the Snohomish County District Court. The only reference to any of the State Defendants is a cursory,  
 11 unsupported sentence regarding LCB's supposed interactions with yet another third party—not  
 12 Cynjo Hall. *See* Pls' Request 4.

13 Simply put, Plaintiffs have not described (1) what relief the proposed additional Plaintiff  
 14 seeks; (2) what claims the proposed additional Plaintiff intends to put forward in support of that  
 15 relief; (3) how any of Cynjo Hall's claims are related or tied to the claims set forth in this action; or  
 16 (4) how any of the Defendants are tied to any of Cynjo Hall's claims. Even read in the most generous  
 17 possible terms, that Cynjo Hall's misdemeanor charge was related to the status of the Washington  
 18 State Liquor and Cannabis Board's enforcement officers, this motion for joinder is legally  
 19 insufficient under the rule and should be denied.

20       **2. Permitting joinder would defeat the goals of judicial economy underlying  
 21 FRCP 20**

22       As the Defendants set forth in their Motion to Dismiss, Plaintiffs' claims necessarily  
 23 depend on the resolution of questions of Washington State, not federal law. Nothing about  
 24 Plaintiffs' proposed joinder changes that fundamental flaw with this suit in this venue. The  
 25 rationale underlying FRCP 20 is that joinder is appropriate when it will promote judicial  
 26 economy and will expedite the final determination of disputes. *League to Save Lake Tahoe*, 558

1 F.2d at 917 (9th Cir. 1977)). But it is contrary to the purpose of judicial economy to add new  
 2 plaintiffs alleging the same claims, which are equally flawed and equally subject to dismissal on  
 3 the same basis as the Motion currently pending before this Court. Plaintiffs have not attempted  
 4 to make any showing that joinder will promote judicial economy, as they cannot. And it is within  
 5 this Court's discretion to deny joinder. *Coughlin*, 130 F.3d at 1350 (9th Cir. 1997).

6 Again, reading Plaintiffs' Motion with the greatest generosity, the only possible tie to  
 7 this action and the Defendants is to assume that Cynjo Hall's misdemeanor charge was related, in  
 8 some manner, to the scope of legal authority of the Washington State Liquor and Cannabis Board's  
 9 enforcement officers, as prescribed by Washington law. But, again, all of Plaintiffs' claims stem  
 10 from the resolution of questions of Washington State law, not questions of federal law. This will not  
 11 change with the addition of Cynjo Hall as Plaintiff.

12 **B. Defendants' Motion to Dismiss is Not Moot; Instead Plaintiffs' Request Reinforces  
 13 that this Action Turns Entirely on the Resolution of Issues of State Law**

14 Finally, in a footnote, and with neither argument nor support, Plaintiffs ask the Court find  
 15 that Defendants' Motion to Dismiss is "moot," apparently assuming (1) that the Court will grant  
 16 their request for joinder and (2) that the inclusion of the proposed plaintiff fundamentally alters  
 17 the analysis of Defendants' Motion to Dismiss. First, Plaintiffs' footnote is not a proper motion  
 18 before the Court, nor is it properly filed as a response to Defendants' long-pending Motion. As  
 19 the Ninth Circuit has emphasized, "[o]ur circuit has repeatedly admonished that we cannot  
 20 'manufacture arguments for an appellant' and therefore we will not consider any claims that  
 21 were not actually argued in appellant's opening brief." *Indep. Towers of Washington v.  
 22 Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (quoting *Greenwood v. Fed. Aviation Admin.*,  
 23 28 F.3d 971, 977 (9th Cir.1994)).

24 Second, and more importantly, even should the Court grant joinder here, the fundamental  
 25 flaws in Plaintiffs' action would remain. Again, Plaintiffs' claims rely entirely on questions of  
 26 Washington State law, and do not raise any federal question. A plaintiff may not establish federal

1 jurisdiction by including in its complaint allegations of federal-law questions that are not  
 2 essential to its claim. *Coeur d'Alene Tribe v. Hawks*, 933 F.3d 1052, 1055 (9th Cir. 2019); *see*  
 3 *also* State Defendants' Mot. to Dismiss Pursuant to FRCP 12(b)(1), (2), ECF No. 28). Plaintiffs  
 4 have provided no support or any argument indicating how the inclusion of Cynjo Hall would  
 5 change this analysis, or in fact, any details about her claims whatsoever. Defendants' Motion to  
 6 Dismiss should be granted.

### 7 III. CONCLUSION

8 Because Plaintiffs have not demonstrated that they meet the threshold requirements for  
 9 joinder, and because even if they did, permitting joinder would not promote judicial economy or  
 10 speed the final decision on justiciable claims, their motion should be denied. Additionally, to the  
 11 extent the Plaintiffs have properly opposed Defendants' pending Motion to Dismiss, their  
 12 arguments are both unsupported and incorrect, and Defendants' Motion is not moot, and should  
 13 be granted.

14  
 15 DATED this 30th day of August, 2021.  
 16  
 17

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 Attorney General

18  
 19 /s/ Jonathan E. Pitel  
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 24 Counsel for State Defendants  
 25  
 26

## **CERTIFICATE OF SERVICE**

I, Jonathan Pitel, hereby certify that on August 30, 2021, I caused the foregoing STATE DEFENDANTS' RESPONSE TO PLAINTIFFS' REQUEST FOR PERMISSIVE JOINDER AND TO MOOT DEFENDANTS' 12(B)(1) MOTION TO DISMISS; DECLARATION OF JONATHAN E. PITEL IN SUPPORT OF DEFENDANTS' RESPONSE TO PLAINTIFFS' REQUEST FOR PERMISSIVE JOINDER; and [PROPOSED] ORDER DENYING PLAINTIFFS' MOTION FOR PERMISSIVE JOINDER AND TO MOOT STATE DEFENDANTS' MOTION TO DISMISS to be served upon the below listed Plaintiffs by First Class United States mail via Consolidated Mail Service, as well as an electronic copy, marked for delivery to:

JOHN NOVAK ;  
20126 BALLINGER WAY NE  
PMB 260  
SHORELINE, WA 98155  
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Via PACER portal:

CHRISTOPHER KING  
MORTGAGEMOVIES007@GMAIL.COM

Via Email to:

THE HONORABLE RICHARD JONES  
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700 STEWART STREET SUITE 13128  
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I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 30th day of August 2021 at Olympia, WA.

/s Jonathan E. Pitel  
JONATHAN E. PITEL, WSBA #47516  
Assistant Attorney General

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